

Delivering the new  
**BUCKINGHAMSHIRE COUNCIL**

# Service Devolution and Asset Transfer Policy

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## Draft Service Devolution & Asset Transfer Policy

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## 1. Introduction

- 1.1 Buckinghamshire Council recognises that the devolution of services and assets to local communities, particularly to town and parish councils, can make a significant contribution to enabling them to be stronger, more resilient and sustainable.
- 1.2 We are committed to pro-actively seeking to transfer appropriate community assets and service devolution in order to provide benefits to local communities.
- 1.3 This policy supports the delivery of a devolution programme which aims to:
  - **Improve outcomes for local communities**—through enabling opportunities for services to be more tailored to meet the diverse needs of communities.
  - **Increase local control over services and assets**—through enabling town and parish councils, in particular as democratically elected bodies, to take decisions on how best to meet local needs.
- 1.4 This policy document will be reviewed annually.

## 2. Scope of this Policy

- 2.1 The scope of this policy document applies to all types of devolution transfer by Buckinghamshire Council - both the devolution of the responsibility for running services and community asset transfer.
- 2.2 Service devolution involves the transfer of the responsibility of running a service from Buckinghamshire Council to another local body.
- 2.3 Community asset transfer involves the transferring of ownership of land, buildings, or other assets from a statutory body to a community organisation in order to achieve a public benefit.
- 2.4 The application of this policy may be triggered by either external requests from local organisations and/or triggered by Buckinghamshire Council through an identification by a service area that an asset is declared 'surplus to requirements'.

### **3. Types of Transfer Arrangement**

- 3.1 The transfer of the responsibility for running a service and/or an asset will broadly be managed through different approaches as set out below. A devolution board will determine the most appropriate arrangement on a case-by-case basis taking into consideration factors such as: applicant preference; and financial and legal considerations. The different types of arrangement are broadly:
- Service Level Agreement - Where a service is devolved, Buckinghamshire Council may set out a service level agreement on the quality standards and activity expected in return for a devolved budget.
  - Freehold Transfer - This is where an asset is permanently transferred to a local organisation, subject to any conditions attached.
  - Long Term Lease - 25 years or more in relation to a building.
  - Short Term Lease or other management arrangement - A lease less than 25 years or a license to occupy or other tenancy agreement.
- 3.2 There is a policy presumption that where an asset is to be transferred this will be offered on the basis of a long term lease or freehold transfer basis, rather than short lease arrangements. This is in order to maximise local control and provide opportunities for the applicant to consider investment in the asset and/or other funding opportunities.
- 3.3 This policy does not set out a preference or hierarchy in regard to the choice of freehold or leasehold transfer in order to enable consideration to be given to the best option on a case-by-case basis, as recommended by the Devolution Board.
- 3.4 Short term lease arrangements may be considered under pilot arrangements, however it is recognised that they may hinder the applicant in planning and investing in a community service without long term certainty.
- 3.5 In regard to freehold transfers, the Council will reserve the right to include conditions on any transfer to protect the future community use of the property. Any conditions will be considered by the Devolution Board on a case-by-case basis.

#### 4. Eligibility and Assessment Criteria

4.1 The following eligibility criteria would apply:

Criteria	Description
a)	<p>This Service Devolution and Asset Transfer Policy is open to:</p> <ul style="list-style-type: none"> <li>• Parish or town council.</li> <li>• Unincorporated charitable organisations;</li> <li>• Companies limited by guarantee with charitable status;</li> <li>• Community Interest Companies, limited by guarantee;</li> <li>• Community Benefit Industrial &amp; Provident Society with an asset lock;</li> <li>• Community Interest Company, limited by shares;</li> </ul>
b)	<p>Organisations must:</p> <ul style="list-style-type: none"> <li>• Be legal entities;</li> <li>• Be non-profit making;</li> <li>• Have community and/or social objectives; and/or</li> <li>• Be located within the boundaries of Buckinghamshire Council area or can demonstrate that they provide services within the area to residents.</li> </ul>
c)	<p>All community assets must remain open to the wider public. This does not disqualify special interest proposals or groups. However, evidence must be provided of how the asset will be used in an inclusive way.</p>
d)	<p>Applicants must provide full contact details for the organisation, including someone with the relevant decision-making authority</p>
e)	<p>Applicants must provide supporting evidence where required and complete all sections of required forms.</p>

4.2 Buckinghamshire Council will not consider expressions of interest from organisations which are political or with political affiliations; organisations engaged in supporting candidates for political office; individuals or businesses who intend primarily to run the service or use the asset for commercial gain.

4.3 In addition to the eligibility criteria set out above, the assessment of requests will consider the following criteria areas:

- a) Community benefit
- b) Local control
- c) Sustainability
- d) Governance of legal structure
- e) Financial standing
- f) Maintenance
- g) Commitment

Further details on the assessment criteria are set out in Annex C.

## **5. Principles**

5.1 Buckinghamshire Council is committed to applying the following principles in how it considers devolution requests:

- Being transparent in the process for devolution, including timelines and decision-making, with as much information published online as possible. For example a list of Buckinghamshire Council owned 'community assets' will be published and linked to the community assets national website.<sup>1</sup>
- Providing timely information to local organisations to make an initial view on whether they are interested in discussing devolution arrangements.
- Assessing devolution requests fairly through the application of this policy.
- Transferring the budget for running a service when Buckinghamshire Council is requiring ongoing specific quality/activity standards to be met. Where no specific service standards are expected by Buckinghamshire Council it is anticipated that following a transfer of the service/asset that the future costs would be covered by the organisation taking on the service/asset.
- Provide a named contact and respond in a timely manner to all devolution enquiries.

## **6. The Devolution Transfer Process**

### ***Decision-making***

6.1 Following consideration of devolution requests, and negotiations, a decision by Buckinghamshire Council and the respective applicant organisation is needed on the sign-off of individual devolution transfers. All such decisions will be taken in accordance with this policy and Buckinghamshire Council's Constitution. Key decisions on significant devolution transfers will be taken by Cabinet and/or Cabinet members. Non-key decisions will be taken by the relevant officers in accordance with the scheme of delegation.

6.2 An advisory Devolution Board will consider all devolution requests and oversee the devolution programme. This will comprise the Cabinet Member Portfolio Holder, and senior officers from within the council (Director of Localities, Property & Assets and other relevant representatives from legal and finance).

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<sup>1</sup> <https://www.keepitinthecommunity.org/>

The Board will make recommendations to the relevant decision-maker (officer/member) on the detail of transfer agreement terms and sign-off.

6.3 The Council may need to balance the competing interests of community groups and an assessment will need to be made as to the option that will deliver most sustainable benefit to the local community. Where possible, potential beneficiaries can be brought together in a partnership and this can result in a collective benefit to residents.

6.4 In considering the best terms for a individual devolution transfer a recommendation will be made on the appropriate rental subsidy, if required, below market rental value, in order to maximise the use of the asset for community benefit. Rental subsidies will only apply in relation to assets considered under this policy.

### ***Pre-Application Stage***

6.5 As part of Buckinghamshire Council's commitment to supporting the transfer of services and assets, support will be provided to town and parish councils to enable them to consider submitting expressions of interest. In particular this will include:

- Online guidance and information including template expressions of interest form and business plan.
- A list of the community asset sites prioritised for potential transfer in phase 1.
- Provision of information to town and parish councils on the specification of services to help inform the development of proposals.
- A named contact to support organisations to submit expressions of interest, support business plan development, and to keep the applicant updated at all stages of the transfer process.
- A commitment to free of charge technical and specialist support to enable assets to be transferred and or services to be devolved.

### ***Stage 1: Expressions of Interest Submission***

6.6 Buckinghamshire Council will then:

- Check that the applicant meets the eligibility criteria to be considered, and notify the applicant accordingly.
- Notify the relevant local member(s) and seek their views.
- If the request is in relation to service devolution, information will be provided to the applicant in regard to service specifications and costs (where possible an estimate of disaggregated costs).
- If the request is in relation to community assets identified as priority in phase 1 of the devolution programme, the following information will be provided to the applicant:

- Estimated costs for maintenance of the asset.
- Estimated market value of the asset (if any).
- Condition survey report.
- If the applicant wishes to then proceed with the transfer request, in light of this information, then the expression of interest will be considered by the Devolution Board.
- The Devolution Board will determine if the application passes the stage 1 assessment and next step options which are:
  - a) Business plan required before decision.
  - b) Business plan not required and decision can be agreed (either as an offer decision or Cabinet Member if a key decision).
  - c) Application rejected.

### ***Stage 2: Business Plan Stage***

- 6.7 The Council wishes to ensure that the transfer is successful, as such a business plan will be required where an asset or service request is of value greater than £100,000 and/or for all key decisions.
- 6.8 The Council recognises that completing a business plan will take the applicant time and effort, and will only ask organisations that meet all of the eligibility criteria.
- 6.9 A business plan will not be required to be submitted where a standard package is offered by Buckinghamshire Council.
- 6.10 Where it is agreed to carry out a pilot of a wide-spread devolution of assets and services to a town or parish council, a single business case will be required. This document would be co-developed in partnership.
- 6.11 All business plans will be considered by the Devolution Board prior to a recommendation to the decision-maker (normally the Cabinet Member).
- 6.12 If a business plan is required it is anticipated that supporting evidence will also be requested on the following areas:
- Health & safety arrangements in place
  - Safeguarding arrangements
  - Staffing and/or contractual arrangements
  - Insurance
  - Operational procedures
  - Governance
- 6.13 The Council will consult local member(s) and Community Boards prior to a decision on transfers that require a business plan.



***Stage 3: Negotiation and Transfer***

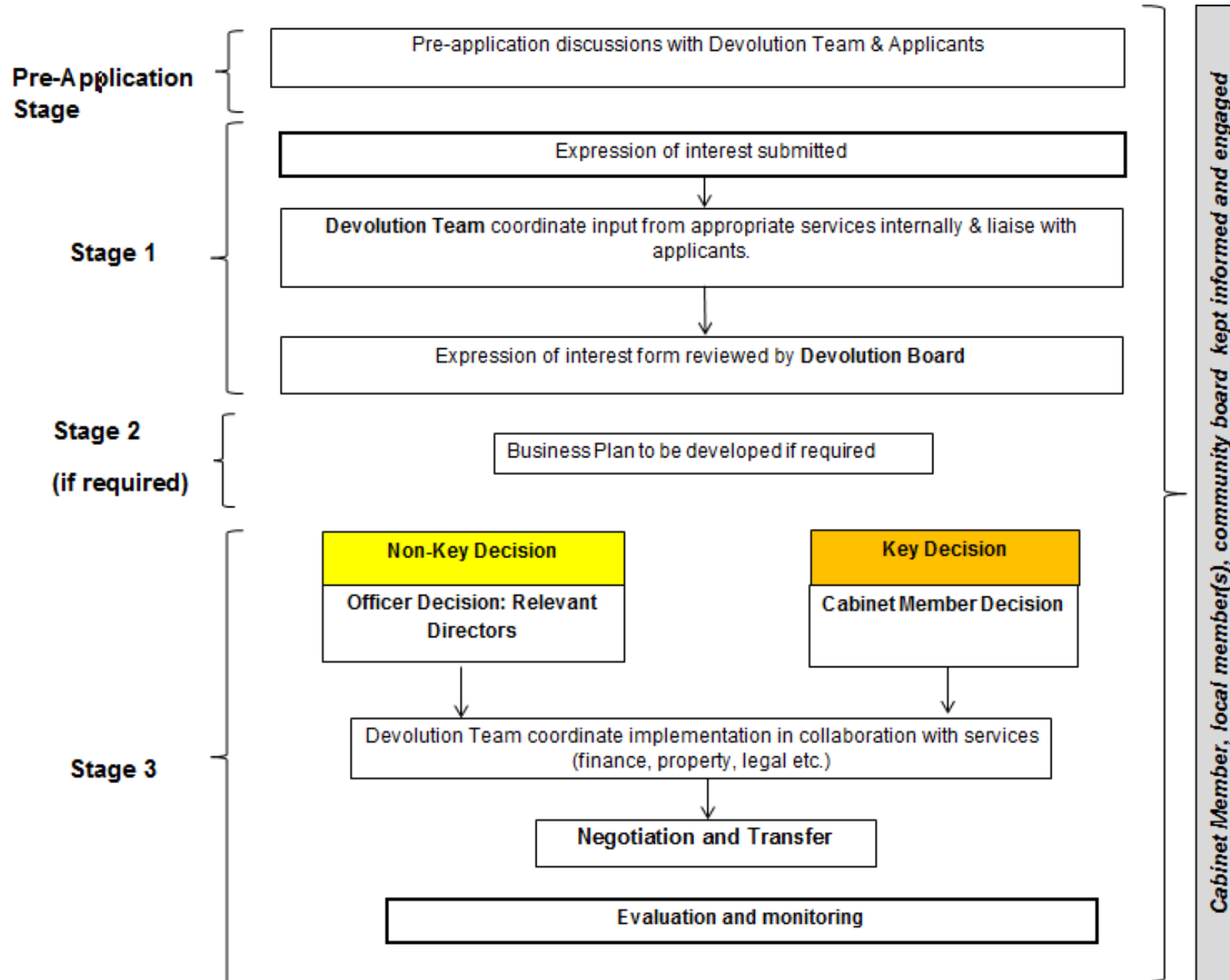
- 6.14 The detail of legal agreements for the transfer of an asset/service will take place following approval of a business plan.
- 6.15 The decision on the sign-off of all transfers will be made in accordance with decision-making rules as set out in Buckinghamshire Council's constitution.

***Appeals***

- 6.16 All applicants are entitled to appeal against an element of this policy if they feel that a decision has been unfair/and or there has been a breach of this policy.
- 6.17 Appeals shall be made in writing, stating clearly the issue or reference to the part of the policy that has been breached, within 28 days of the decision being made.
- 6.18 The appeal will be managed in line with the Council's stage 2 complaints procedure.

*[Note: Following adoption of this Policy, guidance and templates will be developed and published to support organisations to submit expressions of interest]*

### Annex A: Devolution Process Flowchart



## **Annex B: Assets out of Scope of Phase 1 Devolution Offer**

In phase 1 of Buckinghamshire Council's devolution programme it is proposed that some types of assets are considered out of scope of this policy. This means that Buckinghamshire Council will not consider such requests under this policy.

As a new organisation in the first year of operation the Council will be undertaking a range of strategic asset reviews to inform the best use of those assets for the benefit of all Buckinghamshire's residents.

Some types of assets are best managed strategically and thereby retained by Buckinghamshire Council, just as others are better managed locally.

The following asset areas are out of scope:

- Assets held for investment purposes: both assets that generate a net income for Buckinghamshire Council and those held for future capital, revenue regeneration or corporate realisations.
- Vacant land or buildings that may generate a capital receipt, regeneration, revenue aspirations, or corporate aspirations and which are required to fund the capital programme of Buckinghamshire Council.
- Land held for future development by Buckinghamshire Council or partner schemes, as it would not be financially prudent to devolve land and be required to repurchase it in the future.
- Car parks owned and/or run by Buckinghamshire Council.
- Leisure centres owned and/or run by Buckinghamshire Council.
- Buildings used primarily as delivery sites for Buckinghamshire Council services.
- Potential buildings which may be considered as Community Access Points/Hubs in later years, to ensure maximum potential for building redevelopment/investment.

## Annex C: Assessment Criteria

All applicants will be required to complete an Expression of Interest. A Business Plan will also be required at stage 2 in relation to transfer requests over the value threshold of £100,000 for services/assets and in relation to all transfers which require a key decision.

Template forms will be published online as part of a devolution support toolkit. These template forms will include sections to complete in relation to the criteria areas, with an expectation that more detailed information would be provided where a business plan is required.

Assessment Criteria Area	EOI Evidence	Business Plan Evidence
a) Community benefit	Statement of intended community benefit	Strong track record of delivery of community benefit.  Evidence of community impact and resident consultation on proposal.
b) Local control	Meet organisational eligibility criteria.	Evidence that residents will be able to have a say in future decisions on the assets/services.
c) Sustainability	Ability to manage service/property.	Clear long term plan for ensuring viability.  A risk assessment and how these risks will be mitigated.
d) Governance & legal structure	Meet eligibility criteria.	Settled legal entity with proven ability to manage change.
e) Financial standing	Established record of financial probity.	Established record of financial probity with evidence of long term planning.
f) Maintenance	Ability to manage service/property.	Proven record of managing maintenance issues.
g) Commitment	Willingness to participate in evaluation.	Willingness to participate in evaluation and share learning.